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Implementation of human rights instruments

Note by the Secretary-General

The Secretary-General has the honour to submit to the General Assembly the report of the Chairs of the human rights treaty bodies on their twenty-third meeting, held in Geneva on 30 June and 1 July 2011, pursuant to General Assembly resolution 57/202.

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Report of the Chairs of the human rights treaty bodies on their twenty-third meeting

Summary

The General Assembly, in its resolution 57/202, requested the Secretary-General to submit to the Assembly the reports of the persons chairing the human rights treaty bodies on their periodic meetings. The present document contains the report on the twenty-third meeting of the Chairs of the human rights treaty bodies, which was held in Geneva on 30 June and 1 July 2011, pursuant to Assembly resolution 49/178. The Chairs considered the follow-up to the recommendations of the twenty-second meeting and reviewed developments relating to the work of the treaty bodies. They discussed the expertise and independence of treaty body members, as well as ways of enhancing the annual meeting of the Chairs. They held an informal meeting with States parties and adopted recommendations, which are contained in section V of the present report. The report of the twelfth inter-committee meeting of the human rights treaty bodies, held in Geneva from 27 to 29 June 2011, was considered by the Chairs and is annexed to the present report. The full report of the inter-committee meeting working group on follow-up to concluding observations, decisions on individual complaints and inquiries is contained in a separate document (HRI/ICM/2011/3-HRI/MC/2011/2).

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I. Introduction

1. The twenty-third meeting of the Chairs of the human rights treaty bodies, convened pursuant to General Assembly resolution 49/178, was held in Geneva on 30 June and 1 July 2011. The inter-committee meeting working group on follow-up to concluding observations, decisions on individual complaints and inquiries held a meeting in Geneva from 12 to 14 January 2011, and the twelfth inter-committee meeting of the human rights treaty bodies was held, also in Geneva, from 27 to 29 June 2011.

II. Organization of the meeting

2. The Chairs of the following bodies attended: the Committee on Economic, Social and Cultural Rights (Ariranga Pillay); the Human Rights Committee (Zonke Majodina); the Committee on the Rights of the Child (Jean Zermatten); the Committee on Migrant Workers (Abdelhamid El-Jamri); the Committee against Torture (Claudio Grossman); the Committee on the Elimination of Discrimination against Women (Silvia Pimentel); the Committee on the Elimination of Racial Discrimination (Anwar Kemal); the Committee on the Rights of Persons with Disabilities (Ronald Clive McCallum); and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Malcolm Evans).

3. Mr. McCallum took the role of Chair/Rapporteur and Mr. El-Jamri was affirmed Vice-Chair. The Chairs adopted the provisional agenda and annotations (HRI/MC/2011/1) and proposed programme of work.

III. Enhancing the effectiveness of the treaty bodies: a coordinated approach

A. Adoption of the points of agreement of the inter-committee meeting working group on follow-up to concluding observations, decisions on individual complaints and inquiries

4. The Chairs adopted, with a minor amendment, the points of agreement of the inter-committee meeting working group on follow-up. The amendment related to the insertion of the words "where appropriate" in paragraph 61.B (f) of the report of the inter-committee meeting working group on follow-up (HRI/ICM/2011/3-HRI/MC/2011/2). The paragraph as adopted reads: "The inter-committee meeting working group on follow-up recommended that all committees consider extending the deadline for responses from States parties from 90 to 180 days where appropriate, except in the event of an emergency." The Chairs also adopted the points of agreement concluded at the twelfth inter-committee meeting, including the recommendations from the joint meeting with the holders of the special procedures mandates.

B. Eligibility and independence of members

5. The Chairs proceeded to address the question of further strengthening the eligibility, expertise and independence of treaty body members. A background note was prepared by the Secretariat to facilitate the discussion. Reference was made to paragraphs 19 and 20 of the Poznan Statement on the Reforms of the United Nations Human Rights Treaty Body System, and the Chairs reiterated the recommendation that guarantees for independence, availability and competence be strengthened in the context of the election and terms of appointment of treaty body members. In that respect, the Chairs supported the suggestion made in Poznan that a document providing guidance on the eligibility and independence of treaty body members be prepared and adopted. The Chairs discussed some of the elements to be included in such a document, including the possibility of limiting the tenure of treaty body members.

6. The Chairs noted that some treaty bodies, including the Human Rights Committee, already had guidelines on the independence of their members or provisions to that effect in their rules of procedure, and decided that due account should be taken of the existing rules and regulations. The Chairs acknowledged that the election of treaty body members was the prerogative of States parties. However, they recommended that the nomination processes be improved and that guidance on the eligibility of candidates be provided to States parties.

7. The Chairs decided to revisit the issue of eligibility, expertise and independence of treaty body members at their next meeting, in 2012, and requested the Secretariat to prepare a draft working paper, including initial draft proposals (see para. 20 below).

C. Enhancing the meeting of the Chairs of the human rights treaty bodies

8. The Chairs considered a consolidated implementation table with regard to all the recommendations adopted by the inter-committee meeting since its first session and, noting that a low number of recommendations had been implemented, discussed the future of both the inter-committee meeting and the meeting of the Chairs. The Chairs recommended that the inter-committee meeting be replaced by ad hoc thematic working groups that could be established by the Chairs when necessary. They agreed that at their next meeting, to be held at the regional level, in Africa, they would discuss substantive matters, such as the substantive cooperation among treaty bodies (joint statements and general comments/recommendations), the requested working paper on eligibility and independence, and aspects of the upcoming report of the United Nations High Commissioner for Human Rights on strengthening the treaty body system compiling the various proposals that had been made previously. They also agreed to hold meetings with regional stakeholders working in the area of human rights.

9. The principle whereby Chairs should be empowered to adopt decisions on working methods and procedural matters was discussed, resulting in the agreement to formally endorse paragraphs 16 and 17 of the Poznan Statement in that respect. The Chairs were of the view that the paragraphs had been carefully crafted and covered all relevant aspects in a balanced way. It was also agreed that the Chairs

would consult with their respective committees on such matters in advance and that if a treaty body disagreed with the measures adopted by the Chairs, it could subsequently dissociate itself from them. The Chairs agreed to discuss the matter further in each committee to seek approval for a stronger statement.

IV. Informal consultations with States parties

10. The Chairs held informal consultations with representatives of 65 States parties on 30 June 2011. They outlined recent developments and the structural challenges that the treaty bodies were facing with regard to a lack of resources and the difficulty of obtaining translated documents on time. They referred to the new working methods in their respective committees, including those resulting from the decision of the Committee on Economic, Social and Cultural Rights to only consider periodic reports at two meetings; the optional procedure adopted by the Committee against Torture, the Human Rights Committee and the Committee on Migrant Workers involving the making of lists of issues prior to reporting; and the list of themes adopted by the Committee on the Elimination of Racial Discrimination.

11. States welcomed the opportunity to engage in consultations with the Chairs but regretted that such informal meetings were not held more often. States voiced their appreciation for the organization of the informal technical consultations with States parties on the strengthening of treaty bodies held in Sion, Switzerland, in May 2011, and called for further discussions as a follow-up to that meeting. While expressing their support for the work of the treaty bodies, some States reiterated the concerns they had raised in Sion, in particular with regard to activities and issues that, in their opinion, were not called for under the treaties or did not fall within their scope.

12. Several States referred to proposals made in the context of the treaty body strengthening process, mentioning, inter alia, the need for the treaty bodies to streamline and increase cooperation with relevant entities of the United Nations system and other stakeholders. For that purpose, the use of new information and communications technologies, as well as the establishment of a predictable reporting cycle synchronized with the universal periodic review were highlighted. A few States voiced their disappointment at the fact that the inter-committee meeting had ruled out the proposal made in Sion to limit the constructive dialogue to a three-hour meeting. It was suggested that in the future the reports of the States parties be reviewed by task forces composed of members of several treaty bodies. Questions with regard to the report of the High Commissioner on the strengthening of the treaty bodies were also posed, notably with regard to the possibility of States to comment on it. Some States expressed the view that the share of the overall budget of the Office of the United Nations High Commissioner for Human Rights that was allocated to the treaty body system should be increased.

13. Some States shared their positive experience under the new optional reporting procedure (list of issues prior to reporting). Several States reiterated that only reliable and accurate information should be taken into account and asked about measures aimed at ensuring the equality of treatment between the States parties that avail themselves of this optional reporting procedure and those that do not.

14. Several States were of the view that the treaty body rules of procedures on individual complaints needed to be harmonized and adhered to strictly. Some States stressed that the concluding observations should reflect the constructive dialogue

that had been held and take into consideration the views expressed by the State party. Several States noted that the States parties were responsible for implementing the recommendations and called for more specific and realistic recommendations falling strictly within the scope of the treaty to be drafted.

15. Furthermore, some States stressed that the nomination and election of treaty body members was the prerogative of States parties, while others were of the view that the independence and expertise of members could be improved through an open selection process.

V. Decisions and recommendations

16. At their twenty-third meeting, the Chairs of the human rights treaty bodies adopted the decisions and recommendations below.

Adoption of the points of agreement of the twelfth inter-committee meeting

17. The Chairs adopted the points of agreement concluded at the twelfth inter-committee meeting, held from 27 to 29 June 2011.

Adoption of the points of agreement of the inter-committee meeting working group on follow-up to concluding observations, decisions on individual complaints and inquiries

18. The Chairs also adopted, with a minor amendment (see para. 4 above), the points of agreement of the inter-committee meeting working group on follow-up (see HRI/ICM/2011/3-HRI/MC/2011/2).

Expertise and independence of treaty body members

19. The Chairs referred to articles 19 and 20 of the Poznan Statement and reiterated the recommendation that guarantees for independence, availability and competence be strengthened in the context of the election and terms of appointment of treaty body members. In that respect, the Chairs supported the suggestion to prepare and adopt a document providing guidance on the eligibility and independence of treaty body members. They noted that due account should be taken, inter alia, of the existing guidelines of the Human Rights Committee (see A/53/40, vol. I, annex III).

20. In that respect, the Chairs requested the Secretariat to prepare a draft working paper, including initial draft proposals, on enhancing and strengthening the expertise and independence of treaty body members. They agreed that such a working paper could be discussed intersessionally by e-mail and be presented to them at their twenty-fourth meeting. They also agreed that the working paper should include:

(a) A compilation of disaggregated data on the current composition of the treaty bodies, including on the professional background and current position of the various members;

(b) The rules and regulations on enhancing and strengthening the expertise and independence of treaty body members existing in the respective committees;

(c) Comparative information, including on the relevant rules and regulations in the context of the regional human rights systems.

Enhancing the meetings of the Chairs of the human rights treaty bodies

21. The Chairs reaffirmed paragraph 17 of the Poznan Statement. While noting that the autonomy and specificity of treaty bodies should be respected, the spearheading role of the Chairs during the intersessional period in facilitating coordination of common activities and representation, such as consideration and adoption of joint statements, was recognized. It was recommended that the Chairs adopt measures on those working methods and procedural matters which were common across the treaty body system and had previously been discussed within each committee. The Chairs also recommended that such measures would be implemented by all treaty bodies, unless a committee subsequently dissociated itself from it.

Chairs of the twenty-fourth meeting

22. The Chairs reiterated their recommendation that the meeting of the Chairs be held every other year, in different regions. The objective is to make the human rights treaty bodies more accessible to all stakeholders involved in the implementation process and to raise awareness of their work by strengthening linkages and synergies between international and regional human rights mechanisms and institutions. To that end, it was decided that the twenty-fourth meeting of the Chairs would be held in the African region in 2012.

23. The Chairs decided that, in addition to holding meetings and carrying out activities with regional and other stakeholders, at their twenty-fourth meeting, to be held in the African region, they would focus on substantive issues, including:

(a) Consideration of the draft working paper on enhancing and strengthening the expertise and independence of treaty body members, prepared by the Secretariat;

(b) Joint activities that could be undertaken by treaty bodies, including joint statements and general comments/recommendations;

(c) The report of the United Nations High Commissioner for Human Rights compiling the various proposals emerging from the treaty body consultation process.

The inter-committee meeting

24. In view of the above recommendation, the Chairs discussed the issue of the relevance of the current format of the inter-committee meeting. They considered a consolidated implementation table of the recommendations adopted by the inter-committee meeting since its first session, as prepared by the Secretariat at the request of the Chairs at the eleventh inter-committee meeting. In that respect, the Chairs expressed concern about the low number of recommendations implemented, especially with regard to the recommendations pertaining to the harmonization of working methods. In addition, the Chairs discussed the challenges resulting from limited financial resources and expressed concern about the increasing overlap between their meetings and the inter-committee meeting.

25. The Chairs agreed that the inter-committee meeting in its current format should be abolished and transformed, for instance, into ad hoc thematic working groups to be established at the request of the Chairs. Such working groups could discuss issues of common interest, including the harmonization of treaty body jurisprudence.

Statements by the Chairs

26. The Chairs decided to adopt a joint statement on the occasion of the twenty-fifth anniversary of the Declaration on the Right to Development (see annex I). They noted that statements on the interaction of treaty bodies with national human rights institutions and non-governmental organizations should be considered for adoption at a later stage, in accordance with the points of agreement of the twelfth inter-committee meeting.

Treaty body documentation

27. The Chairs voiced concern about the memorandum of the Under-Secretary-General for General Assembly and Conference Management dated 13 June 2011 on the strict implementation of word limits for parliamentary documents[1] and requested the Chair of the twenty-third meeting to address, through the Secretariat, a letter to the Under-Secretary-General to seek clarification on the matter.

[1] The limits are 8,500 words for documents originating in the Secretariat and 10,700 words for documents not originating in the Secretariat.

Annex I

Joint statement of the Chairs of the human rights treaty bodies on the occasion of the twenty-fifth anniversary of the Declaration on the Right to Development

The twenty-fifth anniversary of the adoption by the General Assembly of the Declaration on the Right to Development (Assembly resolution 41/128, annex) will be observed on 4 December 2011.

In our capacity as Chairs of the human rights treaty bodies set up to monitor the implementation of the core human rights treaty obligations at the national level, we welcome the commemoration of the special anniversary of the Declaration. We believe that this anniversary provides a unique and timely opportunity to reiterate the principles and elements set out in the Declaration.

It is significant that the Declaration, in its definition of the right to development (article 1), does not reduce development to purely economic aspirations or goals but articulates a broad, comprehensive understanding of development at the national and international levels. The right to development finds clear resonance in various human rights treaty provisions, which emphasize the multifaceted, multidimensional and complex nature of development processes and the need for development to be inclusive, equitable and sustainable.

The Declaration proclaims that all human rights and fundamental freedoms are indivisible and interdependent and that equal attention must be paid to civil, political, economic, social and cultural rights (article 6 (2)). In fact, there are many similarities and striking complementarities between the Declaration and the human rights treaties. Many elements of the right to development are reflected in human rights treaty provisions and the jurisprudence of treaty bodies, including on self-determination; the fair distribution of resources; equality and non-discrimination, particularly on the grounds of sex, gender, age, race and disability; active, free and meaningful participation; accountability and transparency; substantive rights relating to an adequate standard of living, including food, water and sanitation, housing, health services, education, employment and the enjoyment of culture; freedom of expression, assembly and association; and international assistance and cooperation.

For all the reasons given, we are resolved to make a concerted effort to promote a development-informed and interdependence-based reading of all human rights treaties so as to highlight and emphasize the relevance and importance of the right to development in interpreting and applying human rights treaty provisions and in monitoring compliance with these provisions. In this way, we shall contribute to furthering the realization of the right to development by ensuring that the necessary conditions are in place for achieving economic and social progress and development for all, including vulnerable individuals and groups.

Annex II

Report of the twelfth inter-committee meeting of the human rights treaty bodies

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I. Introduction

1. The twelfth inter-committee meeting of the human rights treaty bodies was held at the Office of the United Nations High Commissioner for Human Rights (OHCHR) at Geneva from 27 to 29 June 2011.

2. The following members of human rights treaty bodies attended: Alessio Bruni (Committee against Torture, member), Ana Elizabeth Cubias Medina (Committee on Migrant Workers, Vice-Chair), Ion Diaconu (Committee on the Elimination of Racial Discrimination, member/Rapporteur), Abdelhamid El-J mri (Committee on Migrant Workers, Chair), Malcolm Evans (Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Chair), Claudio Grossman (Committee against Torture, Chair), Ruth Halperin-Kaddari (Committee on the Elimination of Discrimination against Women, member), Suzanne Jabbour (Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Vice-Chair), Anwar Kemal (Committee on the Elimination of Racial Discrimination, Chair), Yanghee Lee (Committee on the Rights of the Child, Vice-Chair), Ronald Clive McCallum (Committee on the Rights of Persons with Disabilities, Chair), Michael O'Flaherty (Human Rights Committee, Vice-Chair), Ariranga Pillay (Committee on Economic, Social and Cultural Rights, Chair), Silvia Pimentel (Committee on the Elimination of Discrimination against Women, Chair), Eibe Riedel (Committee on Economic, Social and Cultural Rights, member), Jia Yang (Committee on the Rights of Persons with Disabilities, Vice-Chair) and Jean Zermatten (Committee on the Rights of the Child, Chair).

II. Opening of the meeting, election of officers and adoption of the agenda

3. The United Nations High Commissioner for Human Rights, Navanethem Pillay, opened the meeting. Recalling her call to all stakeholders in 2009 to reflect on the future of the treaty body system, she noted that 2011 was a decisive time in the treaty body strengthening process. The High Commissioner highlighted some proposals from recent consultations, particularly the technical consultations with States parties held in Sion, Switzerland, in May 2011, organized by OHCHR in cooperation with the treaty body Chairs and the International Institute for the Rights of the Child. She emphasized that the treaty body members, given their independence and mandate, had the capacity to bring about change. She noted that the treaty body system faced a twofold challenge: the harmonization of its methods of work and a lack of resources. The High Commissioner welcomed and engaged in a dialogue with the participants. She clarified that she had addressed States parties on several occasions on the matter of funding and noted that the work of the treaty bodies should be covered by the regular budget of the United Nations.

4. Following the statement of the High Commissioner, Mr. McCallum was confirmed Chair/Rapporteur and Mr. El-Jamri was confirmed Vice-Chair. The participants adopted the agenda (HRI/ICM/2011/1) and the programme of work.

III. Enhancing the effectiveness of the treaty bodies: a coordinated approach

5. Under the agenda item on enhancing the effectiveness of the treaty bodies, participants discussed ways to improve and harmonize the working methods of the treaty bodies. Pursuant to a recommendation of the eleventh inter-committee meeting, the twelfth inter-committee meeting focused on three issues: the structure of the dialogue with States parties, the format and length of concluding observations and interactions with stakeholders, in particular non-governmental organizations and national human rights institutions. States parties, specialized agencies, funds and programmes, as well as non-governmental organizations and national human rights institutions present were provided with the opportunity to speak under each agenda item.

A. Discussion on the structure of the constructive dialogue with States parties

6. It was agreed that the dialogue with States parties should be as constructive as possible in order to encourage the parties to improve compliance with their legal obligations under the treaties they had ratified. Participants highlighted that the dialogue should be characterized by the principles of inclusiveness, openness and a focus on results.

7. The participants agreed that opening statements by States parties' delegations should be limited to 30 minutes (with flexibility in extraordinary situations) to allow for a dialogue through questions, answers and comments. Time management could be improved by presenting questions in a more strategic manner, for example by clustering them by theme or linking them to lists of issues. Participants encouraged the Chairs to steer the dialogue firmly so as to ensure adherence to the time frame, to encourage States parties to respond to the questions and to guide the experts to reduce rather than increase the length and number of questions. Participants also addressed the question of how to organize the work of the treaty bodies better by enhancing the role of rapporteurs or task forces.

8. The example of the Human Rights Committee, which had provided a written procedural guideline for States parties, was discussed and commended for ensuring clarity in communications with States parties on what to expect and how to prepare for the dialogue. The participants agreed that such guidelines should be developed taking into account the specificity of each committee. The participants unanimously agreed that the proposal by some States parties to reduce the time for dialogue to three hours would not be feasible, given the detailed nature of the review. They also agreed that two meetings of six hours in total would remain appropriate for the consideration of second and subsequent reports. Participants expressed strong support for the webcasting of dialogues in order to enhance transparency and make such information more accessible to a wider range of stakeholders, including Government officials, young people, academic institutions and civil society. The value of the presence and participation of parliamentarians, national human rights institutions and civil society was also highlighted.

B. Discussion on the structure and length of concluding observations

9. From the outset, the participants agreed that in order to ensure a clear assessment of the progress made by a State party since the last review concluding observations should be based on previous concerns and recommendations.

10. The need to produce focused recommendations was emphasized by a number of participants. That could be done by, for example, limiting the length of paragraphs and the number of subparagraphs and by focusing on the main areas of concern. However, the point was also made that when a committee could not agree, the language of the concluding observations was sometimes vague. Basing their opinion on the experience of several treaty bodies, the participants agreed that subject headings could be used if deemed appropriate. They also encouraged treaty bodies to draft their concluding observations using a clear format, following the example included in the points of agreement (see para. 26 below). With regard to including a section in the concluding observations on factors and difficulties, some participants said that their treaty bodies had had such a section but had abolished it because it had sometimes been used by States parties to provide an excuse for not implementing the recommendations.

11. The participants discussed the possible prioritization of the content of concluding observations, including by following the suggestion of the High Commissioner to structure concluding observations around immediate, medium-term and long-term deliverables to facilitate the implementation of the recommendations at the national level. Some participants were of the view that it might be possible to distinguish immediate measures from short- and long-term measures but questioned whether medium-term measures could be distinguished from long-term measures. In addition, some participants indicated that prioritization could generally be better assessed in the context of follow-up and implementation. Not all participants thought that individual committees should be encouraged to agree on a particular length for their concluding observations.

C. Discussion on interaction with stakeholders, in particular national human rights institutions and non-governmental organizations

12. The participants discussed ways to streamline and increase the interaction of the treaty body system with national human rights institutions and civil society actors, including grass-roots non-governmental organizations, and agreed that statements should be adopted in that respect. They emphasized the crucial role played by those stakeholders throughout the reporting process and agreed to prepare information notes on the modalities of the interactions. They also agreed that a common strategy should be developed to ensure the active participation of national human rights institutions and that greater use should be made of information and communications technologies to enable stakeholders to follow the process and engage with the system. Special attention was drawn to threats or reprisals against human rights defenders, individuals or organizations engaging with treaty bodies.

13. Non-governmental organizations welcomed the efforts of treaty bodies to harmonize their interaction with stakeholders and made suggestions to facilitate further their participation in the process, including by improving the master calendar so as to provide timetables and clear deadlines for the submission of information.

They also suggested that alternative reports submitted by non-governmental organizations be posted on the relevant country pages of the OHCHR website. With regard to the proposal to hold sessions at the regional level, participants expressed the view that doing so would raise the profile of treaty bodies and facilitate the participation of grass-roots non-governmental organizations.

D. Other issues

Report of the inter-committee meeting working group on follow-up to concluding observations, decisions on individual complaints and inquiries

14. Under agenda item 5 (b), on the harmonization of working methods, the participants briefly considered the report of the inter-committee meeting working group on follow-up to concluding observations, decisions on individual complaints and inquiries (HRI/ICM/2011/3-HRI/MC/2011/2). Yanghee Lee, Chair of the working group, highlighted the main points of agreement. The participants in the inter-committee meeting decided to submit the report to the meeting of the Chairs for further discussion and endorsement.

Statistical information and indicators relating to human rights

15. The participants heard a briefing by a representative of the Secretariat on the work undertaken with regard to indicators for promoting and monitoring the implementation of international human rights instruments. That work included carrying out activities by stakeholders at the country level for the follow-up on concluding observations. Reference was made to a guide to help implement the framework and methodology outlined in a document being prepared by OHCHR in consultation with a panel of experts, due to be published towards the end of 2011.

IV. Points of agreement of the twelfth inter-committee meeting

16. The participants took note with interest of the proposals made in the context of the informal technical consultations with States parties held in Sion, Switzerland, in May 2011, the statements adopted in Dublin, Marrakesh, Morocco, and Poznan, Poland, and the statements resulting from the civil society consultations held in Seoul and Pretoria.

17. The participants decided on the following points of agreement, to be transmitted to the Chairs of the human rights treaty bodies at their twenty-third meeting.

Inter-committee meeting

18. The participants welcomed the report of the inter-committee meeting working group on follow-up (HRI/ICM/2011/3-HRI/MC/2011/2) and decided to transmit the points of agreement adopted by the working group to the Chairs of the human rights treaty bodies at their twenty-third meeting for discussion and endorsement.

Structure of the dialogue with States parties

Written guidelines for States parties

19. The participants recommended that each committee prepare written guidelines for its dialogue with States parties in the context of the reporting process, keeping in mind the practice of the Human Rights Committee. They also recommended that the guidelines be translated into the working languages of the respective committee and that they be transmitted to the State party in question in advance of the consideration of its report. The participants welcomed the fact that the Secretariat systematically provided technical briefings for the permanent missions of the States parties scheduled for review.

Length of the dialogue

20. The participants recommended that a dialogue with a State party should, as a general rule, be limited to two meetings (six hours in total), except in the case of initial reports. In addition, they did not support the suggestion made by some participants in the Sion consultations to allocate only one meeting (three hours in total) for the dialogue with a State party as that would leave insufficient time for a meaningful dialogue on and an in-depth analysis of the party's implementation of the relevant treaty.

Opening statements

21. The participants recommended that each treaty body allocate no more than 30 minutes for the opening statements of States parties in order to maximize the use of time available and allow for a more interactive dialogue with the State party. However, they noted that flexibility could be applied in extraordinary circumstances.

Time management

22. The participants encouraged the Chairs of the treaty bodies to exercise their power to lead the dialogue effectively so as to ensure a balanced exchange between treaty body members and the State party delegation. In that respect, the participants encouraged the various treaty bodies to introduce a time limit for interventions by their members, based on the model applied in the Committee on the Elimination of Discrimination against Women, as well as for State parties to reply to questions.

Country task forces

23. The participants reiterated their recommendation that each treaty body give due consideration to the idea of establishing country task forces, as well as a country rapporteur, for the consideration of State party reports.

Role of the country rapporteurs

24. Based on the experience of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, the

participants recommended that the country rapporteurs and/or country tasks forces, as relevant, increasingly contribute to the preparations for a dialogue with a State party. That could be done, for example, through the circulation of a rapporteur's note prior to the session and prior consultation and coordination among members on issues they wish to raise.

Concluding observations

Follow-up to previous recommendations

25. With regard to periodic reports, the participants highlighted that previous concerns and recommendations should be the point of departure for the new concluding observations so as to ensure a clear assessment of the progress made by the State party since the previous review. Concerns and recommendations that had not been addressed would therefore be reiterated, while new concerns relating to more recent developments should also be included.

Suggested format

26. The participants encouraged treaty bodies to produce focused recommendations, to limit the length of paragraphs and the number of subparagraphs by focusing on the main areas of concern and, if appropriate, to use subject headings. To that end, they encouraged treaty bodies to draft concluding observations using a clear format in which:

(a) Each paragraph addressed no more than three issues;

(b) The concern was expressed in a maximum of three sentences;

(c) The recommendation consisted of an introductory sentence, if applicable, and up to three recommendations matching the order of the concerns, organized in sequentially lettered subparagraphs.

27. The recommendation could refer to relevant provisions of the treaty as well as to general comments/recommendations.

Standard paragraphs

28. The participants invited individual treaty bodies to discuss whether all standard paragraphs should be maintained or whether their use should be restricted to a specific country context, in cases deemed to be relevant and applicable.

Targeted recommendations

29. The participants recommended that all treaty bodies carefully review the wording used when drafting recommendations so as to make their concluding observations more country-specific and targeted.

Factors and difficulties

30. The participants recommended that treaty bodies be cautious about including a section on factors and difficulties affecting the implementation of the convention/treaty in the reports of States parties. In that respect, they noted that some treaty bodies that had had such a section had subsequently abolished it.

Cross-referencing

31. The participants reiterated their previous recommendation that treaty bodies make cross-references to and repeat the recommendations of other treaty bodies and special procedures mandate holders, where appropriate.

Interaction with stakeholders, in particular national human rights institutions and non-governmental organizations

National human rights institutions

32. The participants recalled the conclusions of the international round table on the role of national human rights institutions and treaty bodies held in Berlin in November 2006, as reiterated in the Marrakesh Statement, and adopted the points of agreement in that regard set out below.

Reporting

33. Treaty bodies were invited to develop a common strategy to ensure the active participation of national human rights institutions throughout the reporting process and to engage with such institutions through new technologies like Skype and videoconferencing. In order to contribute fully to the reporting process, national human rights institutions were encouraged:

(a) To provide information to treaty bodies before the drafting of lists of issues/themes or lists of issues prior to reporting. To that effect, the participants called on individual treaty bodies to try to schedule the examination of States parties reports at least one year in advance and to provide clear deadlines for the submission of written information;

(b) To make oral presentations more systematically in the pre-sessional working groups of treaty bodies and/or during a session, in addition to providing written information prior to the formal examination of a State party report.

Follow-up

34. Individual treaty bodies should invite national human rights institutions:

(a) To encourage the dissemination of information by the State party to all relevant actors on the concluding observations and recommendations of treaty bodies and to support public awareness thereof;

(b) . To support and host follow-up meetings to the concluding observations and recommendations of treaty bodies with the participation of parliament, the judiciary, ministries and other public authorities, non-governmental organizations and other relevant members of civil society;

(c) To advise States parties on action that could be taken to effectively implement the concluding observations and recommendations of treaty bodies;

(d) To engage with members of parliament, ministries and other public authorities regarding the implementation of concluding observations and recommendations.

Training

35. Treaty bodies should encourage national human rights institutions to support the capacity-building of relevant State officials regarding reporting procedures, collection of data for reports and other issues pertinent to the reporting process.

Statement on national human rights institutions

36. The participants recommended that the Chairs of the human rights treaty bodies adopt a statement on interaction of treaty bodies with national human rights institutions, drawing upon the Marrakesh Statement, and that such a statement include a gender perspective.

Non-governmental organizations

37. The participants endorsed the recommendations made in the context of the civil society consultations whereby it is essential for the effective functioning of the treaty body system that civil society actors, including grass-roots non-governmental organizations, have access to and can participate in all stages of the treaty reporting cycle.

38. The participants recommended that the Chairs of the human rights treaty bodies adopt a statement on the interaction of treaty bodies with non-governmental organizations, drawing upon the statements adopted in the context of the civil society consultations in Seoul and Pretoria.

More focused reports and oral interventions

39. As suggested by various stakeholders, the participants recommended that individual treaty bodies invite non-governmental organizations to provide coordinated and more focused submissions to the treaty bodies and to organize their interventions in a more coordinated manner. Although this is currently done by a number of non-governmental organizations, including through coalitions, the participants encouraged the training of civil society actors on how to brief treaty bodies in order to maximize the time made available to them.

Duty to protect human rights defenders

40. The participants recommended that treaty bodies address as a violation of obligations by States parties the issue of threats or reprisals against human rights defenders or any other person or organization engaging with treaty bodies throughout the reporting process, including in the context of individual communications, inquiries and visits. Treaty bodies should adhere to the special procedures and work closely with OHCHR and relevant bodies and agencies to monitor and take action in cases of reprisal or the threat of reprisal. They also recommended that the issue of reprisal or the threat of reprisal be revisited in due course and that the Chairs of the human rights treaty bodies adopt a statement on the matter.

New technologies

41. Recalling the proposals made in the context of the civil society consultations, the participants reiterated their recommendation on the webcasting of treaty body sessions. Webcasting the sessions would enable stakeholders, particularly at the

national level, to follow the process. As an interim measure, audio recordings could be made available through the Internet. The participants also recommended that the treaty bodies engage with non-governmental organizations through new technologies like Skype and videoconferencing. Such use would be facilitated, where possible, by United Nations field offices, while ensuring that it does not create new barriers to access for persons with disabilities.

Improved accessibility and availability of information

42. The participants reiterated their recommendation that OHCHR continue to facilitate the participation of civil society in the work of the treaty bodies, including by making its master calendar more user friendly. It should also ensure that the calendar provides information well in advance on the timetable for all the treaty bodies and on deadlines for civil society contributions relating to all stages of the reporting cycle, including lists of issues/themes, country reviews and follow-up procedures.

43. The participants recommended that information provided by non-governmental organizations to treaty bodies throughout the reporting cycle be posted on the relevant country pages of the OHCHR website, where appropriate.

44. The participants encouraged OHCHR to update its handbook for civil society on a regular basis and to ensure its wide dissemination, including through the Civil Society Section of OHCHR.

Information note for civil society actors

45. The participants recommended that all treaty bodies prepare an information note to be posted on their respective web pages containing information on the modalities of interactions with various stakeholders, including deadlines for the submission of information at sessions and pre-session working group meetings.

Compilation of good practices

46. The participants requested the Secretariat to prepare a compilation of good practices regarding the cooperation of treaty bodies with United Nations entities, national human rights institutions and non-governmental organizations.

Harmonized reporting guidelines and common core document

47. The participants noted that a majority of treaty bodies had adopted revised guidelines for treaty-specific documents on reporting under the international human rights treaties and urged the remaining treaty bodies to complete the adoption of their revised guidelines as soon as possible. The meeting also noted that close to 50 States parties had submitted a common core document and strongly encouraged other States parties to do the same.

Length of reports of States parties

48. The participants reaffirmed their recommendation that the reports of States parties be written in a clear and precise manner, and reiterated the page limits for State party reports (60 pages for initial treaty-specific documents and 40 pages for subsequent periodic documents, where applicable) included in the harmonized guidelines for reporting and agreed upon by the fifth inter-committee meeting. The participants requested the Secretariat to ensure that such page limits were adhered to.

Lists of issues prior to reporting and other methods of work

49. The participants welcomed the update provided by the Committee against Torture on its new optional procedure (lists of issues prior to reporting), which allows for a more focused dialogue with the States parties, and it encouraged other treaty bodies to consider that and other methodologies to assist States in better complying with their reporting obligations.

Regional treaty body sessions

50. With the objective of making the treaty bodies more accessible to all stakeholders involved in the implementation process, the participants endorsed the recommendation contained in the Poznan Statement that due consideration be given to the organization, when appropriate, of treaty body sessions in different regions, with the support of OHCHR regional offices or the United Nations regional commissions.

Statistical information and indicators relating to human rights

51. The participants welcomed recent developments in the work on indicators to help promote and monitor the implementation of human rights, including the activities undertaken by stakeholders at the country level for the follow-up on concluding observations. The meeting looked forward to the publication of a guide to help implement the methodology set out in the document being prepared by OHCHR (see para. 15 above).

Capacity-building and technical assistance

52. The participants recommended that OHCHR expand and systematize its capacity-building and technical assistance activities in relation to the submission of reports, in particular when States face difficulties in complying with their reporting obligations. In that context, they recommended that greater use be made of the expertise of current and former treaty body members. In addition, the participants noted that those experts could help States parties in need of assistance in implementing concluding observations, decisions on individual communications and recommendations resulting from inquiries.

V. Joint meeting of participants of the eighteenth meeting of special rapporteurs/representatives, experts and Chairs of working groups of the special procedures with the Chairs and members of treaty bodies

53. The joint meeting held with the participants of the eighteenth annual meeting of special procedures mandate holders focused on good practices regarding cooperation between the treaty bodies and the special procedures mandate holders, and welcomed the compilation of good practices on cooperation between the two mechanisms prepared by OHCHR at the request of the participants in the joint meeting held in 2010. Discussion was informed by examples of cooperation identified in the report. Additional positive examples of cooperation were shared and further modalities were suggested to coordinate work on issues of common interest.

54. The participants in the joint meeting noted that collaboration between treaty bodies and special procedures mandate holders was extensive and had contributed to the mutual reinforcement of each mechanism's recommendations. It was also noted that collaboration and coordination were essential in order to avoid divergence in the interpretation of human rights norms by the two groups. Increased cross-referencing of recommendations, joint meetings on thematic issues and country situations, joint activities on follow-up to recommendations and joint advocacy aimed, for example, at increasing the number of ratifications of human rights treaties, were advocated. It was noted that special procedures, in particular country mandates, could help treaty bodies to prepare for consideration of States parties' reports through briefings and other input.

55. Several participants referred to cases where special procedures had contributed or were still contributing to the development of general comments by treaty bodies and where treaty bodies had been engaged in the development of guiding principles supported by special procedures. The importance of strategic information-sharing, in particular in relation to thematic priorities, was noted. It was also noted that strategic information-sharing mechanisms required further strengthening and it was agreed that certain measures, including the exchange of workplans and the use of new technologies, should be adopted to facilitate cooperation. It was also suggested that examples should be collected of best practices in implementation relating to themes of common concern to treaty bodies and mandate holders. Systematic and more structured exchanges and interactions between the treaty bodies and the mandate holders were also regarded as crucial.

56. Participants in the joint meeting recommended that additional and recent examples of good practices highlighted by treaty body members and special procedures mandate holders during the joint meeting or immediately afterwards be integrated in the compilation. They also recommended that the consolidated document be finalized in consultation with the Chairs of the joint meeting, kept updated and made publicly available.

57. The provision by OHCHR over the past year of regular updates and newsletters on the outputs and activities of treaty bodies and special procedures were welcomed, and the joint meeting recommended further promotion of the Universal Human Rights Index website and use of other new technologies to increase the availability and accessibility of recommendations of the treaty bodies

and special procedures, as well as the universal periodic review. OHCHR was urged to maintain the forecast of country visits of special procedures and make it available to treaty bodies and to inform treaty bodies at their sessions when mandate holders are available.

58. Recalling that it is the primary responsibility of States to follow up and implement the recommendations of the human rights mechanisms, participants in the joint meeting noted that political bodies like the General Assembly and the Human Rights Council had a role to play in following up with States on the implementation of the recommendations.

59. Participants reiterated the points of agreement adopted at the eleventh inter-committee meeting and the seventeenth annual meeting of special procedures mandate holders (see A/65/190 and A/HRC/15/44) and agreed that the subsequent joint meeting should focus on substantive issues and specific themes to be agreed upon by the two Chairs prior to the meeting.

Points of agreement of the joint meeting

60. On the basis of the compilation, the participants in the joint meeting noted that many examples of good practices of cooperation between treaty bodies and special procedures were already taking place and encouraged pursuing such models of cooperation.

61. In particular, the participants in the joint meeting highlighted the following examples of good practices with regard to cooperation:

(a) The holding of regular joint meetings and the sharing well in advance of the workplans of the treaty bodies and the special procedures mandate holders, in particular with regard to the focus on thematic issues and country situations, was viewed as a good practice. In that regard, the participants commended the exchange between the Chair of the Special Procedures Coordination Committee and the inter-committee meeting working group on follow-up and recommended that such interaction continue;

(b) The joint meeting participants commended the fact that treaty bodies and special procedures mandate holders were increasingly making cross-references to and hence mutually reinforcing each other's recommendations. In that regard, they highlighted that treaty bodies were referring to the requests for country visits made by special procedures and calling upon States parties to follow up on the recommendations formulated by mandate holders. Similarly, the special procedures mandate holders were recalling and following up on the concluding observations of treaty bodies as they related to countries that they visited and on recommendations and decisions on individual communications adopted by the treaty bodies, which was viewed as a good practice;

(c) Special procedures mandate holders were inviting treaty bodies to provide comments on the guidelines and studies that they were developing and to participate in expert consultations. Such invitations were highlighted as good and mutually beneficial practices. Treaty bodies' practice of consulting special procedures mandate holders on general comments was likewise considered a good practice;

(d) Examples of joint advocacy in the ratification of international human rights instruments were commended. Particularly noteworthy were the joint letters addressed to States and the large-scale campaigns planned and undertaken jointly by treaty bodies and special procedures mandate holders;

(e) When relevant, briefings by country-specific or thematic mandate holders to treaty bodies in the context of country reviews were deemed very useful;

(f) Joint activities to follow up on recommendations, such as field visits, technical assistance and training workshops, were commended and encouraged;

(g) The practice of issuing joint press statements on international developments or issues that have a bearing upon the implementation of their mandates and treaties was also highlighted as mutually beneficial.

62. The participants in the joint meeting reiterated the points of agreement adopted at the eleventh inter-committee meeting and seventeenth annual meeting of special procedures mandate holders and agreed on the following points of agreement, to be transmitted to the Chairs of the human rights treaty bodies at their twenty-third meeting:

(a) Recognizing the need to create a space for exchanging views, experiences and joint strategies on thematic issues of common interest to the treaty bodies and the special procedures, the participants recommended that the next joint meeting be more substantive and focus on specific themes, to be agreed upon by the two Chairs prior to the meeting;

(b) The participants commended OHCHR for the compilation of good practices on cooperation between treaty bodies and special procedures mandate holders, and recommended that the document integrate additional and recent examples of good practices highlighted by treaty body members and special procedures mandate holders during the joint meeting or immediately afterwards. They also recommended that the consolidated document be finalized in consultation with the two Chairs of the joint meeting, be made available to the public and be updated on a regular basis;

(c) The benefits of formal and informal interactions between the treaty bodies and special procedures mandate holders were highlighted by the participants, who recommended that: (i) such interaction be systematized and better structured; (ii) a mechanism be established to increase communication and information flow, as well as for the coordination of follow-up activities; (iii) treaty body members be informed of the presence in Geneva of special procedure experts during their session and, similarly, that special procedures mandate holders be made aware of the sessions scheduled by the treaty bodies, as well as of the countries under consideration and the thematic discussions to be held; and (iv) the use of communications technologies like Skype and videoconferencing be explored;

(d) The participants in the joint meeting welcomed the additional steps taken by OHCHR over the previous year to provide regular updates and newsletters on the outputs and activities of treaty bodies and special procedures. In order to further increase the availability and accessibility of the collective information produced by the treaty bodies and special procedures mandate holders, the participants recommended that greater use of the Universal Human Rights Index or similar web-based tools be promoted, notably by increasing the visibility of this tool on the

OHCHR home page, and that all relevant documents be prepared in Word and systematically posted on the OHCHR website in order to ensure that persons with disabilities could access them;

(e) The participants recalled that it is the primary responsibility of States to ensure the implementation of the recommendations of the human rights mechanisms. They also recalled that political organs, including the Human Rights Council and the General Assembly, were responsible for following up with States on the implementation of recommendations of the special procedures mandate holders and treaty bodies. In that respect, special procedures mandate holders and treaty bodies can facilitate the implementation of their recommendations by ensuring that their recommendations are specific, measurable, attainable, realistic and time-bound. It might be helpful to collect examples of such recommendations.